

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 1, 2005

To: The Commission
(Meeting of April 7, 2005)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1555 (La Malfa) California Renewables Portfolio Standard
Program: hydroelectric generation facilities**
As Introduced February 22, 2005

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Oppose.

SUMMARY: This bill would eliminate the existing prohibition against counting existing large-scale hydroelectric facilities towards state goals under the Renewables Portfolio Standard program.

DIGEST: Existing law, P.U. Code sec. 399.12, defines “eligible renewable energy resource” to include the output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of January 1, 2003 only for purposes of establishing the baseline of an electrical corporation.

This bill would define “eligible renewable energy resource” to include the output of a hydroelectric generation facility procured or owned by an electrical corporation as of January 1, 2003.

DIVISION ANALYSIS (DSP): The question of whether large hydroelectric generation should be included in the RPS program was and remains highly controversial. Under this bill, certain utilities would benefit more than others, potentially increasing their renewable energy baselines above 20% and exhausting their procurement responsibilities under the renewables portfolio standard. Under this bill, it is likely that renewable energy development would stall for certain utilities, not because new infrastructure has been added, but simply because of a technical change to the state’s renewable energy accounting system.

LEGISLATIVE HISTORY:

SB 1078 (Sher) and SB 1038 (Sher), Statutes of 2002, established the renewables portfolio standard program and defined eligible generation technologies.

STATUS:

Set for hearing in the Assembly Utilities & Commerce Committee on April 11, 2005.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

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Date: April 1, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1555 INTRODUCED
 BILL TEXT

INTRODUCED BY Assembly Member La Malfa

FEBRUARY 22, 2005

An act to amend Section 399.12 of the Public Utilities Code,
relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1555, as introduced, La Malfa. California Renewables
Portfolio Standard Program: hydroelectric generation facilities.

(1) The Public Utilities Act imposes various duties and
responsibilities on the Public Utilities Commission with respect to
the purchase of electricity and requires the commission to review and
adopt a procurement plan and a renewable energy procurement plan for
each electrical corporation pursuant to the California Renewables
Portfolio Standard Program. Existing law requires each electrical
corporation to increase its total procurement of eligible renewable
energy resources by at least 1% per year so that 20% of its retail
sales are procured from eligible renewable energy resources no later
than December 31, 2017. Existing law defines "eligible renewable
energy resource" to include the output of a small hydroelectric
generation facility of 30 megawatts or less procured or owned by an
electrical corporation as of January 1, 2003 only for purposes of
establishing the baseline of an electrical corporation.

This bill would define "eligible renewable energy resource" to
include the output of a hydroelectric generation facility procured or
owned by an electrical corporation as of January 1, 2003.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399.12 of the Public Utilities Code is
amended to read:

399.12. For purposes of this article, the following terms have
the following meanings: (a) "Eligible renewable energy resource" means
an electric generating facility that is one of the following:

(1) The facility meets the definition of "in-state renewable
electricity generation facility" in Section 25741 of the Public
Resources Code.

(2) A geothermal generation facility originally commencing
operation prior to September 26, 1996, shall be eligible for purposes
of adjusting a retail seller's baseline quantity of eligible
renewable energy resources except for output certified as incremental
geothermal production by the Energy Commission, provided that the
incremental output was not sold to an electrical corporation under
contract entered into prior to September 26, 1996. For each facility

seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a ~~small~~ hydroelectric generation facility ~~of 30 megawatts or less~~ procured or owned by an electrical corporation as of ~~the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15~~ January 1, 2003. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from such facilities shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(c) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing in this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electrical utility as defined in subdivision (d) of Section 9604.

(d) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.